

MARCH 4, 2014 ANNUAL CITY MEETING

**PROPOSED CHARTER CHANGE RE POLICE CONFISCATION/SEIZURE
OF WEAPONS DURING DOMESTIC ABUSE INCIDENT—Article 99, Section 511**

Shall the Charter of the City of Burlington, Acts of 1949, No. 298 as amended be further amended to add Article 99. General Weapons Requirements Sec. 511 entitled “Police Confiscation/Seizure During Incident” thereto to read as follows:

Sec. 511. Police Confiscation/Seizure During Incident.

- (a) This act expressly supersedes 24 V.S.A. §§ 2291(8) & 2295 and authorizes the City of Burlington to regulate the possession and control of firearms in the manner indicated below.

- (b) Whenever, within the City of Burlington, a police officer has probable cause to believe that a person has been the victim of domestic abuse, as defined in Chapter 21 of Title 15 of the Vermont Statutes Annotated, the officer may confiscate any firearm, ammunition, or deadly or dangerous weapon, as defined in 13 V.S.A. §4601, in the immediate control or possession of the person alleged to be the abuser.

- (c) A person whose property has been confiscated may request its return, and the police shall return the property within five (5) days of receiving the request, except in the following circumstances:
 - (1) if the property is being held as evidence for a legal proceeding connected with the domestic violence complaint; or
 - (2) after a hearing, a court order is issued denying the request or prohibiting the owner from possessing such property.

- (d) A person who fails to turn over a weapon in the immediate control or possession of an alleged abuser when requested by a police officer pursuant to subparagraph (b) above may be subject to the following penalty:

(1) Criminal Offense. Such a violation of this Article may be considered a criminal offense, which shall be punishable by a fine of no more than \$1,000 and/or by imprisonment for not more than ninety (90) days.

(2) Civil Offense. Such a violation of this Article may also be considered a civil ordinance violation punishable by a fine of no less than \$200 and no more than \$500 and civil forfeiture of the weapon as provided below.

(3) Forfeiture. Upon probable cause that a person is in violation of this provision, a law enforcement officer may seize the weapon involved in the violation. The person from whom the weapon is seized, or the owner of the weapon (if different), may appeal the forfeiture of the weapon within thirty (30) days of the seizure to the Vermont Superior Court, Civil Division, pursuant to Chapter 102 of Title 12 of the Vermont Rules of Civil Procedure and Rule 74 of the Vermont Rules of Civil Procedure. In any appeal, the burden of proof shall rest upon the City to establish the violation by a preponderance of the evidence. If the City fails to establish the required burden of proof, the items shall be returned to the person from whom they were seized. If no appeal is taken within thirty days, or if the City prevails in the superior court proceedings, the items so seized shall become the property of the City of Burlington.?

* Material underlined added.

** Material stricken out deleted.